

**ENVIRONMENTAL MANAGEMENT COMMISSION
AIR QUALITY COMMITTEE MEETING SUMMARY**

**May 12, 2021
Virtual Public Meeting
9:00 – 10:00 A.M.**



MEETING BRIEF

During the May 12, 2021 meeting, the Air Quality Committee (AQC) of the Environmental Management Commission (EMC) heard:

- Concept: Amendments to NC’s Title V Operating Permit Program Rules (553)
- Action Item: Request for Approval of Proposed Rule Revisions and Regulatory Impact Analysis and to Proceed to EMC for Approval to Proceed to Public Hearing on the Update to Nitrogen Oxide State Implementation Plan Rules, 15A NCAC 02D .1400 (552)

AQC MEMBERS IN ATTENDANCE

Ms. Shannon M. Arata, AQC Chair	Ms. Marion Deerhake
Mr. Charles S. Carter, AQC Vice-Chair	Ms. Maggie Monast
Ms. Donna Davis	Mr. John McAdams
Ms. Suzanne Lazorick	

OTHERS IN ATTENDANCE

Dr. Stan Meiburg, EMC Chairman	Mr. David Anderson EMC
Mr. David Anderson, EMC	Mr. JD Solomon EMC
Mr. Donald van der Vaart, EMC	Mr. Phillip Reynolds, EMC Counsel
Ms. Pat Harris EMC	Mr. Mike Abraczinskas, DAQ Director
Mr. Steve Keen EMC	Mr. Michael Pjetraj, DAQ Deputy Director
Ms. Yvonne Bailey EMC	Ms. Sushma Masemore
Ms. Marion Deerhake EMC	DEQ Staff
Ms. Maggie Monast EMC	Members of the public
Ms. Suzanne Lazorick EMC	

PRELIMINARY MATTERS

Agenda Item I-1, Call to Order and the State Government Ethics Act, N.C.G.S. §138A-15

AQC Chair Arata called the meeting to order and inquired, per General Statute §138A-15, as to whether any member knows of any known conflict of interest or appearance of conflict with respect to matters before the EMC's AQC. Conflict of interest was not identified and Chair Arata proceeded with the meeting.

Agenda Item I-2, Review and Approval of the March 10, 2021 Meeting Minutes

Chair Arata requested approval of March 10, 2021 Meeting Minutes. Commissioner Lazorick made the motion and Commissioner Monast seconded the motion. The minutes were approved without a discussion, however Commissioner Meiburg commended the DAQ staff for their work on the previous meeting minutes.

RULEMAKING CONCEPTS

Amendments to North Carolina's Title V Operating Permit Program Rules (553) (Katherine Quinlan, DAQ)

Description:

Ms. Quinlan presented the concept for proposed revisions to the Title V Operating Permit Program Rules in 15A NCAC 02Q .0500. In August 2001, EPA granted North Carolina full approval of its Title V Operating Permit Program. Since then, three program reviews have been conducted, in 2005, 2010, and 2014. The fourth program review was initiated in 2020. As part of the fourth program review, EPA provided comments on the Title V rules in early 2021. Therefore, the DAQ is proposing to revise some of the Title V rules to address EPA's comments. The comments include minor typographical and rule reference error corrections, alignment of language with requirements in 40 CFR Part 70, and procedural updates relating to permit processing timeframes and final actions, the public participation process, and the submittal of documents to EPA. After receiving EPA's comments, DAQ Permitting and Planning Sections have discussed and researched the rules and had one follow-up discussion with EPA regarding the progress and projected timeline for the rulemaking. Next, the DAQ intends to continue discussions, draft the rule language, and provide the draft rules to EPA for a preliminary review prior to proceeding with the next stage of the rulemaking process. Currently, the DAQ anticipates bringing the draft rules to the AQC in July, dependent on the preliminary review process with EPA, holding a public comment period in October and November of 2021, and requesting EMC adoption of the revised rules in January 2022. This would place the tentative effective date of the rules around March 2022.

Discussion:

Commissioner Meiburg commented that the topic looks straightforward and asked if there is anything in EPA's comments that is more than ministerial with respect to procedural aspects of the rule or consistency with Part 70 requirements. Ms. Quinlan responded that the majority of the comments are fairly minor or procedural, affecting only DAQ, and in some circumstances bringing our rules into alignment with what DAQ already does. **Commissioner Meiburg** asked for an example. Ms. Quinlan responded with the example of providing a statement of basis to the EPA, which DAQ already does, but is not required by the rules. Ms. Quinlan clarified that there are some comments which are more substantial but are still being discussed and researched. **Commissioner Meiburg** asked for an example of the more substantial comments. Ms. Quinlan responded with examples of permit processing timeframes

and judicial aspects occurring after a final permit action. **Commissioner Meiburg** asked for more specifics about permit processing timeframes. Ms. Quinlan responded that the rules have certain timeframes for how quickly the DAQ acts after providing EPA with a copy of the draft permit and taking final action. For example, the rules do not contain the 270-day timeframe for issuing the majority of permits, and inquired whether the Permitting Section Chief has anything to add. Mr. Michael Pjetraj, DAQ Deputy Director, added that DAQ has had communication with EPA and is moving forward on a handful of actions. He clarified that some of the items deal with judicial review and the process that facilities have in terms of review of permits and objections to permits, which DAQ is working through with legal staff and Region 4. **Commissioner Meiburg** asked whether DAQ sees any potential conflict between what EPA is requesting and State law. Mr. Pjetraj responded that at this time, based on consultation with legal representation, DAQ believes all issues can be remedied. **Chair Arata** asked for any further questions. No further questions were raised. **Chair Arata** asked for further detail on EPA's comments at future meetings involving this rulemaking. Mr. Pjetraj confirmed that DAQ will provide details at future meetings.

ACTION ITEMS

Request for Approval of Proposed Rule Revisions and Regulatory Impact Analysis and to Proceed to EMC for Approval to Proceed to Public Hearing on the Update to Nitrogen Oxide State Implementation Plan Rules, 15A NCAC 02D .1400 (552) (Bradley Nelson, DAQ)

Description:

Mr. Nelson, presented the proposed revisions to the NOx SIP Call rules in 15A NCAC 02D .1400. This includes the amendment of 02D .1401 and .1402, and the adoption of 02D .1424 and 1425.

Mr. Nelson presented a background summary background of the EPA SIP NOx Call which was promulgated in 1998, the promulgation and vacatur of the Clean Air Interstate Rule (CAIR) for NOx and SO₂, and the replacement of that rule with the Cross State Air Pollution Rule (CSAPR). While the CSAPR replaced CAIR, the NOx SIP Call budgets for electricity generating unit (EGU) sources and non-EGU sources have not been removed from the State Implementation Plan (SIP), and North Carolina needs to re-establish these NOx budgets in its State rules to comply with EPA's anti-backsliding rules. In addition, the U.S. Environmental Protection Agency (EPA) has amended the monitoring requirements for non-EGU sources to include alternative monitoring.

Mr. Nelson noted that in comments and feedback from the EPA, they recommended that the DAQ revise the monitoring requirements for non-EGU sources to allow alternative monitoring and to include the ozone season NOx budgets for both EGU and non-EGU sources. Based on these recommendations, the DAQ is proposing that the definitions for "EGU", "non-EGU", and "ozone season" be amended in 15A NCAC 02D .1401. The DAQ is also proposing to amend the applicability references in 15A NCAC 02D .1402. Two rules are proposed for adoption and include; 15A NCAC 02D .1424 which allows non-EGU sources to petition for alternative monitoring, and 15A NCAC 02D .1425 which establishes the NOx SIP Budgets for EGU and non-EGU sources and requires ozone season reporting of NOx emissions from these sources.

Mr. Nelson stated that the costs to facilities for reporting these emissions was estimated to be \$43,076 in the first year and \$25,190, thereafter. The cost to the DAQ was determined to be \$7,500 to complete permit modifications. The total benefit for non-EGU sources that use alternative monitoring was calculated to be \$64,817 per year.

Mr. Nelson pointed out that the rule concept was presented to the AQC in their September 2020 meeting and again in November 2020 to respond to questions that the committee had on the concept. The proposed

rule text and OSBM-approved fiscal note is being presented at this May 2021 meeting for approval to go before the July 2021 EMC meeting to request to proceed to public hearing.

Discussion:

Mr. Nelson asked if any of the committee members had any questions. **EMC Chairman Meiburg** asked if the intention for these proposed changes was to align the state rules with the SIP, and to make alternative monitoring available for non-EGU sources. Mr. Nelson responded that was correct unless the non-EGU is required to operate a NOx continuous emission monitoring system (CEMS) for another rule. **EMC Chairman Meiburg** asked if the ozone season report was a provision in the CSAPR requirements, and if the requirements in the CAIR would be fully supplanted by the requirements in CSAPR. Mr. Nelson pointed out that the CAIR requirements have already been retired and the CSAPR requirements have already replaced them. **EMC Chairman Meiburg** asked for confirmation that by replacing CAIR with CSAPR in the SIP would prevent anti-backsliding by the State. Mr. Nelson stated that was correct.

Commissioner Bailey noted that the commission is encouraged to reduce costs to the regulated community, but need to ensure the communities are protected and asked for more information on the difference in cost from the alternative monitoring and the CEMS. Mr. Nelson noted that the difference in cost is mostly a result of not having to purchase and operate a CEMS. He added that CEMS also require annual relative accuracy test and other QA/QC measurements throughout the year. He noted that both monitoring methods require the monitoring of fuel usage. **Commissioner Bailey** asked if the alternative monitoring only required keeping records of the fuel burned. Mr. Nelson stated that in addition to monitoring the fuel, emission factors based on previous monitoring data will be used to determine the NOx emissions. Deputy Director Pjetraj added that the facilities have previously done monitoring of NOx emissions and will continue to do periodic NOx testing, and they will be able to develop site-specific emission factors for the fuel types that they use. **EMC Chairman Meiburg** asked if some of these non-EGUs are using NOx controls and if these controls are being calculated into the site-specific emission factors. Mr. Nelson that some of the non-EGU sources have low NOx burners (LNB) installed, but none are equipped with selective catalytic reduction or selective non-catalytic reduction. **EMC Chairman Meiburg** noted that a risk from using site-specific emission factors would be if you had a malfunction in the LNB, which was causing the formation of NOx at a higher rate than expected due to temperature increases. Therefore, he added that there is some level of risk that you might underestimate NOx emissions, but assuming you have relative standard operating conditions and site-specific emission factors, these are manageable risks.

Commissioner Deerhake asked if Mr. Nelson would read the proposed definition in 15A NCAC 02D .1401(17) for large non-EGUs. **Commissioner Deerhake** noted that the subparts (A) and (B) in the definition were either/or statements.

Motion: Chair Arata opened the floor for a motion to proceed to EMC in July 2021 to request approval to Proceed to Public Hearing on Rule Revisions to 15A NCAC 02D .1400. **Commissioner Deerhake** made the motion to approve, and **Commissioner Bailey** seconded. The agenda item was unanimously approved.

EMC AGENDA ITEMS

Request Approval of Hearing Officers' Report on Adoption of Final Emission Guidelines for Existing Landfills (540) (Rahatul Ashique, DAQ)

Explanation: To revise the municipal solid waste landfill rules to adopt the final emission guidelines, 40 CFR Part 60, Subpart CF, for existing landfills.

EMC Action: EMC on its May 13th meeting heard, and approved hearing officers report and the agenda item was unanimously approved.

INFORMATIONAL ITEMS

None

Agenda Item V-2, Director's Remarks (Mike Abraczinskas, DAQ)

The Deputy Director reflected that he would make his remarks at the 5/13/21 EMC meeting.

CLOSING REMARKS AND MEETING ADJOURNMENT

Chair Arata thanked again the speakers for the presentation and noted that the next meeting of the AQC is scheduled for July 7, 2021. **Chair Arata** adjourned the meeting.